IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 23174 of 2004(H)

PETITIONER:

THOTTOLI MUHAMMEDKUTTY,
S/O. AHAMMED KUTTY, IRATTAKULA HOUSE,
PALLIKKAL, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:
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1. THE TAHASILDAR, THIROORANGADI,
MALAPPURAM DISTRICT.

2. THE DEPUTY TAHASILDAR,
ARREAR COLLECTION, THIROORANGADI,
MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SMT. T.B.RAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 23174/2004 H

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RR NOTICE RECEIVED BY THE PETITIONER BY THE R2 DT. 14/5/2004.

EXT.P2. COPY OF THE ORDER BY THE R1 DT. 17/12/2003.

RESPONDENT'S EXHIBITS/ANNEXURES

ANNEXURE A: COPY OF THE OF CERTIFICATE ISSUED BY THE ASSISTANT EXEUCTIVE ENGINEER ALONG WITH AREA CALCULATION SHEET.

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.23174 OF 2004

Dated this the 13th day of July, 2007

JUDGMENT

Read the orders dated 5.8.2004, 19.8.2004 and 15.10.2004. Pursuant to the aforesaid orders, the report of the Assistant Executive Engineer is placed on record. By that report dated 27.10.2004, it is stated that the petitioner is liable to pay luxury tax on the basis of the plinth area determined on measurement, in terms of the aforesaid interlocutory orders of this Court. Annexure A-1 shows a total plinth area of 300.34 m^2, which is much above the bench mark of 278.7 m^2 for the purpose of levy of luxury tax in terms of the Kerala Building Tax Act, 1975. Though learned counsel for the petitioner attempts to point out that what is shown as the 'veranda' in Annexure A-3 is only a 'car porch', that does not stand, firstly because in spite of the report dated 27.10.2004 having been placed on record on 3.11.2004, after serving a copy to the petitioner on 1.11.2004, no objections are filed. That apart, front veranda as shown in Annexure A-3 has a plinth area of only 10.71 m^2 going by

Annexure A and even if that is deducted from the total plinth area of 300.34 m^2, it will also be above the statutory bench mark. Under such circumstances, the contentions does not survive.

In the result, the writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.